

Message Text

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ACTION SCI-06

INFO OCT-01 EUR-25 EA-11 IO-13 ADP-00 ACDA-19 CIAE-00

INR-10 L-03 NSAE-00 NSC-10 RSC-01 SCEM-02 DODE-00

PM-07 H-03 PA-03 PRS-01 SS-15 USIA-15 RSR-01 /146 W

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R 191454Z JUL 73

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 3126

INFO AEC GERMANTOWN

AMEMBASSY BONN

USMISSION EC BRUSSELS

AMEMBASSY TOKYO

C O N F I D E N T I A L IAEA VIENNA 6024

E.O. 11652: N/A

TAGS: PARM, IAEA, US

SUBJECT: US VOLUNTARY SAFEGUARDS OFFER

REF: A. IAEA VIENNA 4563; B. IAEA VIENNA 5953

SUMMARY: IAEA IS READY FOR THIRD NEGOTIATING SESSION
ON U.S. VOLUNTARY SAFEGUARDS OFFER SCHEDULED FOR JLY 25,
AND PLANS GIVE U.S. NEGOTIATORS FULL COUNTERDRAFT OF
AGREEMENT. END SUMMARY.

1. IN PREPARATORY DISCUSSION JULY 18 PRIOR TO FORMAL
NEGOTIATING SESSION JULY 25 WITH HEAD IAEA TEAM
(LOPEZ-MENCHER), HE TOLD MISOFFS AGENCY HAS COMPLETE
COUNTERDRAFT OF PROPOSED US-IAEA SAFEGUARDS AGREEMENT.
PENDING FINAL REVIEW BY AGENCY'S LEGAL DIVISION HE COULD
NOT GIVE TEXTS OF THESE DOCUMENTS TO U.S. SIDE,
BUT HE HELD OUT HOPE THIS COULD BE DONE IN ADVANCE OF
JULY 25 MEETING, HOPEFULLY ON JULY 20.

2. LOPEZ SAID COUNTERDRAFT INDENTICAL TO U.S. DRAFT,
WITH EXCEPTION ARTICLES 1, 2, 12, 14, 19, 23, 28, 39,
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40, 42 62 AND 83. IN ADDITION, AGENCY WOULD RESERVE

ON EXCLUSION ARTS 91-97. HE DESCRIBED CHANGES IN ARTICLES 23, 62, AND 83 AS MINOR. MOST OF AGENCY'S PROPOSALS APPARENTLY ARE TO RESTORE STANDAR "BLUE BOOK" LANGUAGE TO GREATER EXTENT THAN IN U.S. DRAFT. IN ARTICLE 19, AGENCY BELIEVES U.S. ATTEMPT TO LIMIT SANCTIONS WHICH WOULD BE APPLICABLE IN EVENT OF NON-COMPLIANCE WITH AGREEMENT IS ILL-ADVISED, AND PROPOSES SANCTIONS INDENTICAL TO THOSE APPLICABLE TO NNWS IN STANDARD NPT AGREEMENTS. MISOFFS POINTED OUT THAT PURPOSES OF AGREEMENTS WERE DIFFERENT. LOPEZ-MENCHERO ARGUED THAT SINCE NON-COMPLIANCE WITH VOLUNTARY OFFER, AN OFFER WHICH COULD ALWAYS SIMPLY BE WITHDRAWN, IS MOST REMOTE EVENTUALITY, OPTICAL SIMILARITY WITH STANDARD AGREEMENTS IS DESIRABLE. LIKEWISE, IN ARTICLE 28, AGENCY QUESTIONS ADDITION OF THW WORDS "SUBJEC TO SAFEGUARDS UNDER THIS AGREEMENT" AND WONDERS WHETHER STICKING TO EXACT BLUE BOOK LANGUAGE NOT PREFERABLE.

3. MISOFFS WERE NOT TOLD NATURE OF ALL DIFFERENCES BETWEEN U.S. AND AGENCY DRAFTS, NOW DID WE, IN ABSENCE EXACT TEXT OF CHANGES, ATTEMPT TO PRESENT FULL SCALE ARGUMENT AGAINST CHANGES. WE DID HAVE EXTENDED DISCUSSION OF INTERNATIONAL TRANSFERS AND BELIEVE WE MADE SOME PROGRESS IN CLARIFYING FOR LOPEZ U.S. POSITION HE HAD NOT PREVIOUSLY UNDERSTOOD. WE FIRMLY ARGUED AGAINST OPTICAL SIMILARITY ON THESE PARTICULAR PROVISIONS, BOTH BECAUSE OF ADMINISTRATIVE DIFFICULTIES THIS WOULD POSE FOR USG AND BECAUSE OF OUR INTEREST IN HAVING UK AND USSR AGREE TO PROVIDE AGENCY WITH INTER-NATIONAL TRANSFER INFORMATION IDENTICAL TO THAT TO BE PROVIDED BY U.S. WE THEREFORE URGED THAT STARTING POINT FOR DRAFTING TRANSFER PROVISIONS SHOULD NOT BE BLUE BOOK BUT CONSIDERATION OF EXACTLY WHAT INFORMATION, WITH WHAT TIMING, WOULD BE MOST USEFUL TO AGENCY. WE ALSO POINTED OUT THAT WHEN THIS DETERMINED, IDENTICAL UNDERTAKINS BY U.S. AND UK (SEPARATE FROM THEIR RESPECTIVE AGREEMENTS IMPLEMENTING THEIR GENERAL OFFERS) AND USSR MIGHT BE PROPER VEHICILE FOR PUTTING IT ON RECORD. LOPEZ-MENCHERO EXPECTED GIVE US PAPER JULY 25 DESCRIBING INFORMATION RE INTERNATIONAL TRANSFERS TO AND FROM NWS'S WHICH AGENCY CONFIDENTIAL

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WOULD FIND USEFUL.

4. LOPEZ-MENCHERO DESCRIBED POSSIBLE ALTERNATIVE FORMULATION FOR AGREEMENT WHICH HE BELIEVED CONSISTENT WITH FLEXIBLE SELECTIVE APPROACH REFLECTED IN U.S. DRAFT,

BUT WHICH WOULD OFFER PRESENTATIONAL ADVANTAGES. ALTERNATIVE, CURRENTLY BEING STUDIED BY AGENCY LEGAL DIVISION,

WOULD INVOLVE (1) AGREEMENT TEXT PER INFCIRC/153, WITH APPROPRIATE CHANGE IN ART 1 AND WITH ART 34 CALLING FOR LIST, TO BE INCLUDED IN SUBSIDIARY ARRANGEMENTS, OF ELIGIBLE FACILITIES CONTAINING NUCLEAR MATERIAL "SUBJECT TO SAFEGUARDS," (2) PROTOCOL SPELLING OUT MODE OF OPERATION OF PART II OF AGREEMENT, TO WIT: (A) FACILITY ATTACHMENTS FOR ALL ELIGIBLE FACILITIES TO BE INCLUDED IN SUBSIDIARY ARRANGEMENTS, (B) ON OR BEFORE JUNE 30 EACH YEAR AFTER AGREEMENT COMES INTO FORCE, U.S. WILL UP-DATE LIST OF ELIGIBLE FACILITIES, (C) UPON ENTRY INTO FORCE, AND BY SEPT 30 OF EACH YEAR THEREAFTER, AGENCY WILL INFORM U.S. OF THOSE FACILITIES, AMONG THOSE ELIGIBLE, RE WHICH AGENCY WILL MAKE STATEMENTS CALLED FOR BY ART 90 DURING FOLLOWING CALENDAR YEAR AND (D) PROVISIONS STATING THAT ART 28 WILL NOT RPT NOT BE APPLICABLE TO LISTED ELIGIBLE FACILITIES, OTHER THAN THOSE FOR WHICH AGENCY MAKES STATEMENTS PER ART 90, IN ACCORDANCE PRECEDING PROVISION.

5. KEY FEATURE OF ALTERNATIVE IS THAT, IF ART 28 INAPPLICABLE TO MOST OF ELIGIBLE FACILITIES, THEN AGENCY CAN EMPLOY, WITH RESPECT TO THOSE FACILITIES ONLY THOSE PROCEDURES SPELLED OUT IN PART II (SUCH AS RECORDS AND REPORTS) WHICH ARE DESIRABLE TO ACCOMPLISH PURPOSE OF OFFER IN EYES OF THOSE TO WHOM OFFER WAS DIRECTED. CONVERSELY AGENCY WOULD BE FREE TO FOREGO ANY EFFORT AT INDEPENDENT VERIFICATION (INSPECTION) WITH RESPECT TO THOSE FACILITIES.

6. LOPEZ-MENCHERO HAS ASKED LEGAL DIVISION TO EXAMINE CONSEQUENCES OF FOREGOING PROTOCOL FORMULATION FOR TEXT OF AGREEMENT PROPER, BUT THIS MAY NOT BE COMPLETED IN CONFIDENTIAL

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TIME PERMIT PROPOSAL IN FORM OF DRAFT TEXT AT JULY 25 MTNG. IN THAT EVENT, WE EXPECT HE WILL PRESENT FORMALLY OUTLINE OF CONCEPT FOR U.S. CONSIDERATION. MISSION IS CERTAIN IDEA ORIGINATED WITH LOPEZ-MENCHERO, BUT THAT IT IS DESIGNED TO ACCOMMODATE CRITICISM OF PRESENT U.S. FORMULATION BY SOME MEMBERS OF HIS TEAM AS WELL AS BY OUTSIDERS. MISSION WILL WISH TO EXAMINE IDEA CAREFULLY BEFORE COMMENTING, BUT IT APPEARS AT FIRST GLANCE TO BE CONSCIENTIOUS EFFORT BY LOPEZ-MENCHERO TO ACCOMPLISH U.S. OBJECTIVES WHILE AVOIDING SUCH CRITICISM. LABOWITZ

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